



Senate

General Assembly

File No. 386

January Session, 2005

Substitute Senate Bill No. 1091

Senate, April 18, 2005

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING A MUNICIPAL ELECTRIC AGGREGATION DEMONSTRATION PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) For purposes of this
2 section, "municipal aggregation unit" means a municipality, or political
3 subdivision thereof, or group of municipalities, or political
4 subdivisions thereof, that serve as an electric aggregator for the
5 purpose of negotiating the purchase of electric generation services
6 from an electric supplier for all electric customers within the legal
7 boundaries of such municipality, or political subdivision thereof, or
8 group of municipalities, or political subdivisions thereof.

9 (b) On and after January 1, 2006, there shall be a municipal electric
10 aggregation demonstration program that shall operate in two phases,
11 each for a period of not more than five years. Such demonstration
12 program shall allow customers of a distribution company, as defined

13 in subdivision (29) of section 16-1 of the general statutes, to opt-out of
14 the electric service offered by the municipal aggregation unit. Current
15 customers of competitive suppliers may be offered the opportunity to
16 opt-in to the aggregation and are excluded from opt-out if their
17 supplier provides customer information required by the Department
18 of Public Utility Control pursuant to subsection (e) of this section. The
19 combined number of participants in the demonstration program shall
20 represent not more than eight hundred megawatts of load in the state,
21 as determined by the Department of Public Utility Control. Each
22 municipal aggregation unit that seeks to participate in the
23 demonstration program shall file with the department a letter of intent,
24 draft ordinance and such other documentation as the department may
25 require not later than September 1, 2005. The department may
26 establish additional filing deadlines as it deems appropriate. The
27 department shall review such filings to ensure that the municipalities
28 participating in the demonstration program represent a diverse range
29 of population sizes. Each municipal aggregation unit shall retain the
30 services of a firm having expertise in electric aggregation and energy
31 procurement to provide assistance with its participation in the
32 demonstration program, including, but not limited to, the
33 development of its request for proposal. Municipalities or political
34 subdivisions of municipalities that are served by municipal electric
35 utilities that have declined to participate in the competitive electric
36 generation market prior to January 1, 2005, shall not be eligible to
37 participate in this demonstration program.

38 (c) A municipality shall initiate a process to form or join a municipal
39 aggregation unit by the adoption of an ordinance.

40 (d) The municipal aggregation unit shall issue a request-for-
41 proposal to licensed electric suppliers for the provision of electric
42 generation service and select a bidder after providing a written
43 analysis that the economic benefits will be equal to or exceed the
44 current or projected economic benefits of receiving electric generation
45 services through transitional standard offer service or standard service.
46 The municipal aggregation unit shall not be subject to the provisions of

47 section 16-245s of the general statutes.

48 (e) Not later than June 15, 2005, the Department of Public Utility
49 Control shall open a proceeding to develop a set of demonstration
50 program requirements which shall include, but not be limited to, the
51 manner by which electric customers are provided (1) notice of the
52 initiation of a demonstration program, (2) information regarding rates
53 and environmental characteristics, (3) information regarding contract
54 terms and conditions, and (4) notice regarding a customer's right to
55 cancel service. Electric customers shall be given not less than sixty days
56 notice prior to the initiation of a demonstration project.

57 (f) Not later than January 1, 2008, the Department of Public Utility
58 Control, in consultation with the Office of Consumer Counsel, shall
59 submit, in accordance with section 11-4a of the general statutes, a
60 report regarding the performance of the municipal electric aggregation
61 demonstration program to the joint standing committee of the General
62 Assembly having cognizance of matters relating to energy. The report
63 shall also include findings and recommendations regarding whether or
64 not the time period for this demonstration program should be
65 extended, and whether or not the program should be expanded state-
66 wide.

67 Sec. 2. Subdivision (31) of subsection (a) of section 16-1 of the
68 general statutes is repealed and the following is substituted in lieu
69 thereof (*Effective from passage*):

70 (31) "Electric aggregator" means (A) a person, municipality,
71 municipal aggregation unit, as defined in section 1 of this act, or
72 regional water authority that gathers together electric customers for
73 the purpose of negotiating the purchase of electric generation services
74 from an electric supplier, or (B) the Connecticut Resources Recovery
75 Authority, if it gathers together electric customers for the purpose of
76 negotiating the purchase of electric generation services from an electric
77 supplier, provided such person, municipality, unit or authority is not
78 engaged in the purchase or resale of electric generation services, and
79 provided further such customers contract for electric generation

80 services directly with an electric supplier or, in the case of a municipal
81 aggregation unit, such customers contract for electric generation
82 services with an electric supplier in accordance with the provisions of
83 section 1 of this act, and may include an electric cooperative
84 established pursuant to chapter 597.

85 Sec. 3. Section 16-245o of the general statutes is repealed and the
86 following is substituted in lieu thereof (*Effective from passage*):

87 (a) To protect a customer's right to privacy from unwanted
88 solicitation, each electric company or electric distribution company, as
89 the case may be, shall distribute to each customer a form approved by
90 the Department of Public Utility Control which the customer shall
91 submit to the customer's electric or electric distribution company in a
92 timely manner if the customer does not want the customer's name,
93 address, telephone number and rate class to be released to electric
94 suppliers. On and after July 1, 1999, each electric or electric distribution
95 company, as the case may be, shall make available to all electric
96 suppliers customer names, addresses, telephone numbers, if known,
97 and rate class, unless the electric company or electric distribution
98 company has received a form from a customer requesting that such
99 information not be released. Additional information about a customer
100 for marketing purposes shall not be released to any electric supplier
101 other than a municipal aggregation unit unless a customer consents to
102 a release by one of the following: (1) An independent third-party
103 telephone verification; (2) receipt of a written confirmation received in
104 the mail from the customer after the customer has received an
105 information package confirming any telephone agreement; (3) the
106 customer signs a document fully explaining the nature and effect of the
107 release; or (4) the customer's consent is obtained through electronic
108 means, including, but not limited to, a computer transaction.

109 (b) All electric suppliers except municipal aggregation units shall
110 have equal access to customer information required to be disclosed
111 under subsection (a) of this section. No electric supplier except a
112 municipal aggregation unit shall have preferential access to historical

113 distribution company customer usage data.

114 (c) No electric or electric distribution company shall include in any
115 bill or bill insert anything that directly or indirectly promotes a
116 generation entity or affiliate of the electric distribution company. No
117 electric supplier shall include a bill insert in an electric bill of an
118 electric distribution company.

119 (d) All marketing information provided pursuant to the provisions
120 of this section shall be formatted electronically by the electric company
121 or electric distribution company, as the case may be, in a form that is
122 readily usable by standard commercial software packages. Updated
123 lists shall be made available within a reasonable time, as determined
124 by the department, following a request by an electric supplier. Each
125 electric supplier seeking the information shall pay a fee to the electric
126 company or electric distribution company, as the case may be, which
127 reflects the incremental costs of formatting, sorting and distributing
128 this information, together with related software changes. Customers
129 shall be entitled to any available individual information about their
130 loads or usage at no cost.

131 (e) Each electric supplier shall, prior to the initiation of electric
132 generation services, provide the potential customer with a written
133 notice describing the rates, information on air emissions and resource
134 mix of generation facilities operated by and under long-term contract
135 to the supplier, terms and conditions of the service, and a notice
136 describing the customer's right to cancel the service, as provided in this
137 section. No electric supplier shall provide electric generation services
138 unless the customer has signed a service contract or consents to such
139 services by one of the following: (1) An independent third-party
140 telephone verification; (2) receipt of a written confirmation received in
141 the mail from the customer after the customer has received an
142 information package confirming any telephone agreement; (3) the
143 customer signs a document fully explaining the nature and effect of the
144 initiation of the service; or (4) the customer's consent is obtained
145 through electronic means, including, but not limited to, a computer

146 transaction. A customer who has a maximum demand of five hundred
 147 kilowatts or less shall, until midnight of the third business day after
 148 the day on which the customer enters into a service agreement, have
 149 the right to cancel a contract for electric generation services entered
 150 into with an electric supplier. The provisions of this subsection shall
 151 not apply to the customers of municipal aggregation units.

152 (f) An electric supplier shall not advertise or disclose the price of
 153 electricity in such a manner as to mislead a reasonable person into
 154 believing that the electric generation services portion of the bill will be
 155 the total bill amount for the delivery of electricity to the customer's
 156 location. When advertising or disclosing the price for electricity, the
 157 electric supplier shall also disclose the electric distribution company's
 158 average current charges, including the competitive transition
 159 assessment and the systems benefits charge, for that customer class.

160 (g) Each electric supplier shall comply with the provisions of the
 161 telemarketing regulations adopted pursuant to 15 USC 6102.

162 (h) Any violation of this section shall be deemed an unfair or
 163 deceptive trade practice under subsection (a) of section 42-110b.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	16-1(a)(31)
Sec. 3	<i>from passage</i>	16-245o

Statement of Legislative Commissioners:

In section 1(b) the phrase "of a distribution company, as defined in subdivision (29) of section 16-1 of the general statutes," was added after "shall allow customers" for clarity.

PD *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Public Utility Control, Dept.	CC&PUCF - None	None	None

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund

Municipal Impact:

Municipalities	Effect	FY 06 \$	FY 07 \$
Various Municipalities	Savings	Potential	Potential

Explanation

This bill establishes a demonstration program in which municipalities can act as an aggregator and choose an electric supplier to serve all of the customers in the municipality. To the extent that municipalities acting as an electric aggregator could negotiate favorable terms, such municipalities could realize a savings as ratepayers.

The bill also requires the Department of Public Utility Control (DPUC) to establish customer notice and demonstration program requirements. It is estimated that DPUC will be able to establish the customer notice and demonstration program requirements within available resources.

OLR Bill Analysis

sSB 1091

**AN ACT CONCERNING A MUNICIPAL ELECTRIC AGGREGATION
DEMONSTRATION PROGRAM****SUMMARY:**

This bill establishes a demonstration program in which a municipality can act as an electric aggregator and choose a supplier to serve all of the customers in the municipality. (An aggregator brings customers together for purposes of negotiating with suppliers, but does not buy power or other generation services itself.) Under current law, municipalities and other entities can act as aggregators only on an "opt-in" basis. This means that the customer must take affirmative steps to be served by the aggregator and the supplier it chooses. The bill sets a cap on the number of participants in the demonstration program.

The bill requires the Department of Public Utility Control (DPUC) to establish customer notice and other program requirements. It specifies the procedures a participating municipality must follow and how it must choose a supplier. The bill exempts municipalities that participate in the program from some requirements that apply to other aggregators, including that the supplier obtain a customer's consent in order to serve him.

The program starts on January 1, 2006 and must run in two phases, each for up to five years. The bill requires DPUC to report to the Energy and Technology Committee on the program by January 1, 2008.

EFFECTIVE DATE: Upon passage

DEMONSTRATION PROGRAM***Program Scope***

Under the bill, a municipality that participates in the program serves as an electric aggregator in order to negotiate the purchase of generation services from a supplier for all electric customers in the municipality. By law, an aggregator brings customers together, but

does not buy or resell generation services itself. Groups of municipalities can participate in the demonstration program, as can “political subdivisions” of a municipality. The bill does not define the latter term and it is unclear that they have the power to adopt an ordinance, which the bill requires for participation.

Municipalities served by municipal electric utilities that chose, as of January 1, 2005, not to participate in the competitive market may not participate in the program. None of the state’s municipal utilities had chosen to participate in this market as of that date,

Currently, suppliers serve about 1% of electric customers in the state, with the remainder served by utilities. The bill states that customers of suppliers in municipalities that participate in the program are excluded from the program if their supplier provides certain information (described in the next section) to its customers. The supplier’s customers can instead affirmatively choose to participate in the program.

The bill limits participation in the demonstration program to 800 megawatts of load (demand), as determined by DPUC. It does not specify whether this is peak or average load, which would affect how many customers could participate.

DPUC Program Requirements

The bill requires DPUC, by June 15, 2005, to open a proceeding to develop program requirements. The requirements must at least specify how a customer will be informed of (1) the start of a demonstration program; (2) rates, contract terms and conditions, and environmental characteristics (the bill does not specify whose); and (3) the customer’s right to cancel service. As discussed below, the bill exempts suppliers in participating municipalities from more detailed requirements under current law regarding the last two points. The bill requires that the notice to customers be given at least 60 days before a “project” (presumably program) begins.

Application to DPUC

Under the bill, a municipality must adopt an ordinance to initiate the process of participating in the program. The municipality must also file with DPUC a letter of intent, a draft of the ordinance, and other

documentation that DPUC requires by September 1, 2005. DPUC can establish additional filing requirements. It must review the filings to ensure that the participating municipalities represent a diverse range of population sizes.

The municipality must retain a firm that has expertise in electric aggregation and energy procurement to help the municipality participate in the program, including the development of a request for proposals (RFP). The municipality must issue an RFP to licensed suppliers. It must select a bidder after providing a written analysis that the economic benefits exceed the benefits of receiving default service from a utility.

Exceptions to Provisions Governing Other Aggregators

The bill includes municipalities that participate in the program in the definition of “electric aggregator.” As a result, they must register with DPUC. But the bill exempts participating municipalities from several other provisions that apply to other aggregators.

Under current law, electric utilities cannot release information about a customer, beyond his name, address, phone number, and rate class, to suppliers for marketing purposes unless the customer consents to the release by one of four means. The bill allows utilities to release such information, without the customer’s consent, to municipalities that participate in the program. It allows participating municipalities to have preferential access to customer information, including his electric usage data. The bill also appears to allow a utility to switch the service of a customer in a participating municipality to the supplier it chose without obtaining the customer’s consent through one of the four means.

The bill exempts suppliers, with regard to customers in participating municipalities, from requirements that they give potential customers written notice of:

1. the rates, terms, and conditions of their service;
2. the customer’s right to cancel service; and
3. the air emissions and resource mix of generating facilities the supplier owns or has under long-term contract.

The bill also excludes such customers from provisions that:

1. require the supplier to confirm that the customer has consented to receive service from it using one of four confirmation methods and
2. give most customers three business days to cancel a contract with a supplier.

The only customers not currently covered by the latter provision are those with a peak demand of more than 500 kilowatts, i.e., large commercial and industrial customers.

Under current law, an aggregator's customers must contract directly with the supplier for generation services. The bill instead specifies that customers in participating municipalities contract with the supplier "in accordance with section 1" of the bill, although this section does not address the contract between the supplier chosen by the municipality and the customers.

DPUC Report

Under the bill, DPUC, in consultation with the Office of Consumer Counsel, must report to the Energy and Technology Committee on the program's performance by January 1, 2008. The report must also include the DPUC's findings and recommendations on whether the program should be (1) extended and (2) made statewide.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Report

Yea 14 Nay 4